

Rye City Planning Commission Minutes

April 10, 2001

PRESENT:

Michael W. Klemens, Chairman
Brian Spillane
Philip DeCaro
Joseph P. Cox
Lawrence H. Lehman
Doug McKean

ABSENT:

Peter Larr, Vice Chairman

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
Chairman Hodnett, Conservation Commission/Advisory Council
Dennis Buckley, Conservation Commission/Advisory Council
Chantal Detlefs, City Naturalist

Chairman Klemens called the regular meeting to order in the Council Hearing Room of the City Hall and a quorum was present to conduct official business.

I. HEARINGS

1. Davidson Amended Wetlands Permit #40B

Chairman Klemens began by reading the public notice and opening the public hearing held in connection with the Davidson amended wetland permit application.

Mr. Scott Davidson, property owner, presented his application. He indicated that the project involves a request to amend wetland permit approval No. 40A to construct a hot tub and patio area on the rear of his existing residence within a regulated 100-foot wetland buffer area. Mr. Davidson noted that the proposed improvements would have a total impervious coverage of 474 square feet, but that this increase will be offset by the removal of the existing patio on the rear of the property. Upon project completion the total amount of impervious coverage would be reduced by nine square feet.

There being no comments or questions from the public or the Commission, the public hearing was closed.

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II. ITEMS PENDING ACTION

1. Davidson Amended Wetlands Permit #40B

Mr. Davidson opened by indicating that he had been delayed in retaining a mason to construct the retaining wall that was approved by the Commission last year in connection with wetland permit No. 40A and that an extension of time for this approval appears necessary. The City Planner informed Mr. Davidson and the Commission that the requested extension was not part of the current application and that it would have to be filed as a separate application. The Commission noted that the prior approval would expire shortly if an extension were not granted. He indicated that he would submit an extension of time application for the Commission's next meeting.

Nick Hodnet, Chairman of the Conservation Commission/Advisory Council noted that he received the application information late and therefore had no comments for the Commission.

In its deliberation, the Commission noted that the proposed modification request to construct a hot tub and patio was minor and would not adversely impact the 100-foot buffer or adjacent wetland. The Commission indicated some frustration with the application because the current request represents the second modification to the approved permit. The Commission strongly noted that it did not want to see yet another modification in the future. Mr. Davidson noted that all of the previous modifications were unexpected but that he did not anticipate any additional changes in the future.

On a motion made by Douglas McKean, seconded by Philip DeCaro and carried by the following vote:

AYES: Michael W. Klemens, Brian Spillane, Philip DeCaro, Joseph P. Cox,
Lawrence H. Lehman, Douglas McKean
NAYES: None
ABSTAIN: None
ABSENT: Peter Larr

the Planning Commission took the following action:

ACTION: The Planning Commission adopted Resolution No. 06-2001 granting Amended Wetlands Permit Approval for the construction of a proposed hot tub and patio.

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2. Moran Amended Tree Preservation Plan Approval

Mr. John Slaker, applicant's landscape architect and representative, summarized the applicant's request to amend the approved tree preservation plan for the Moran Lot to reflect the accidental removal of an existing tree in the front yard. Mr. Slaker noted that former City Planner Fred Zepf had approved, as permitted under the law, the removal of some trees on the property that were damaged in a windstorm and were diseased. Those trees were tagged with yellow flags to indicate their removal. The tree accidentally removed was tagged with an orange flag used by land surveyors. In the removal process the distinction in the flags was not recognized, resulting in the accidental removal of the tree. To compensate for the loss of the tree, Mr. Slaker proposed two 5-inch caliper Glory Maples.

Mr. Slaker also noted on the plan, a modification in the configuration of the cabana on the rear of the property. No trees would be required to be removed for the construction of the cabana. The change would increase the separation of the cabana by 20-feet from one property line, but decrease the separation from another property line by 5 feet. In all cases the cabana would comply with the setback requirements of the City's Zoning Code.

The Commission noted concern with the 5-foot reduction in property line setback for the cabana and that if the change were to be approved a public hearing would be required. The City Planner noted that he requested the applicant to put the change in the cabana configuration on the plan in the interest of full disclosure, but that it did not need the approval of the Commission since it complied with the requirements of the Zoning Code approved tree preservation plan for the lot. The Commission indicated that previous modifications in garages on properties have resulted in concerns from adjacent property owners and felt a public hearing regarding the change was appropriate.

After a brief discussion with his client, Mr. Moran, Mr. Slaker indicated that they would amend the plans to maintain the previously approved setback dimension for the cabana.

The Commission then discussed the proposed emergency generator. Members noted concern with its location and possible noise impact on adjacent properties. Mr. Slaker indicated that the generator would be diesel powered and that it would only be used in the event of a power failure. The City Planner noted that the generator was part of the Commission's prior approval. The Commission reminded the applicant that the generator would have to comply with the requirements of the City's noise ordinance.

The Commission questioned the designation on the plan for trees #190, 195 and 196. Mr. Slaker indicated that those trees were approved to be removed by former City Planner

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Zepf. The Commission inquired as to whether tree #203 would be affected by the construction of the cabana. Mr. Slaker indicated that tree #203 was approved to be removed by City Planner Zepf. Finally, the Commission noted that there was no notation for tree #952. Mr. Slaker indicated that the notation for that tree on the plan should read "removed."

The Commission discussed the appropriateness of Glory Maple as the proposed replacement trees. It was determined that two Red Oaks would be more appropriate.

On a motion made by Phillip DeCaro, seconded by Brian Spillane and carried by the following vote:

AYES: Michael W. Klemens, Brian Spillane, Philip DeCaro, Joseph P. Cox,
Lawrence H. Lehman, Douglas McKean
NAYES: None
ABSTAIN: None
ABSENT: Peter Larr

the Planning Commission took the following action:

ACTION: The Planning Commission adopted Resolution No. 07-2001 granting Amended Tree Preservation Plan Approval for the Morgan Lot subject to the applicant revising the plans to reconfigure the cabana so that it is no closer than the previously approved property line setback dimension and that the proposed replacement trees are changed from "Glory Maple" to "Red Oak."

3. 22 Park Lane

Gordon Avery, property owner, presented the application, which involves a request to maintain an existing stone wall constructed along the front property line within a 100-foot wetland buffer. The City Planner advised that the property owner received a notice of wetland law violation from the City Building Department and has appeared before the City Court, which has adjourned the matter to give the applicant the opportunity to secure a wetland permit for the wall from the Planning Commission.

The Commission noted that the stone wall does not appear to comply with the requirements of the City Floodplain Management law. The wall constitutes filling and the creation of an obstruction in a floodplain. To address this issue to some degree the Commission requested that 12"x12" holes be provided on the bottom of the wall to allow floodwaters to pass through. The applicant indicated that he would revise the plans to include the requested holes. The City Planner noted that he would confer with the Building Inspector and report back to the Commission as to whether the wall is inconsistent with

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City's Floodplain Management Law and whether a variance from the Zoning Board of Appeals is necessary.

The Commission also noted that the wall does not appear to comply with the maximum height requirements of the City's fences and walls law. The City Planner noted that he would review the law with the Building Inspector and report back to the Commission as to whether the height of the wall is compliant.

The Commission stated that the applicant's site plan did not clearly distinguish the existing structures from the illegally constructed wall. In addition, the Commission noted that no plan would be accepted unless a licensed professional engineer stamps it.

The matter was adjourned subject to the City Planner providing additional information regarding the compliance of the application with the City Code and the applicant revising its plans to reflect drainage holes at the base of the wall.

4. Mathas

Mr. Ted Mathas, property owner, briefly described the application, which involves a permit to maintain a hot tub within a 100-foot wetland buffer area. The City Planner advised that the property owner received a notice of wetland law violation from the City Building Department and has appeared before the City Court, which has adjourned the matter to give the applicant the opportunity to secure a wetland permit for the hot tub from the Planning Commission. The applicant noted that he inherited the violation shortly after he purchased the property from a builder and property owner in February 2001. The construction of the hot tub was at Mr. Mathas' direction.

The City Planner advised the Commission that the residence underwent a substantial renovation and rear building addition (i.e. "tear down") in the summer and fall of 2000 by then owner and builder Robert Howard. During the course of construction, Mr. Howard removed a large number of trees and imported a large amount of fill in the back yard of the property. In response to a neighbor complaint the Building Inspector reviewed the activities and issued a wetland permit violation. As is standard practice the violation was sent to City Court, which adjourned the matter giving the previous owner the opportunity to resolve the violation with the City.

The City Planner noted that based on preliminary information the previous wetland permit violation appeared to have been "cured" by the implementation of a remediation plan that was administratively approved by the former City Planner and City Naturalist in January or February 2001. After the remediation plan was accepted by City Staff the City Court dismissed the violation and a Certificate of Occupancy was issued by the Building Department for the completion of the renovated residence. The City Planner advised that

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he was unable to find a file on the violation or related plans in the Planning Department, making confirmation of the facts difficult.

Also in attendance in the Planning Commission's meeting was environmental consultant Paul J. Jaehnig who was responsible for conducting an on-site wetland boundary delineation and preparing the remediation plan in connection with the prior wetland violation on the property. He confirmed for the Commission that the facts and chronology provided by the City Planner were consistent with his recollection. He also offered to make available to the City Planner his files and information in connection with the prior plan, administrative process and violation.

The Commission noted great concern over what it considered an unprecedented action by City Staff to administratively approve a remediation plan in connection with a wetland law violation. Typically, such an approval is the responsibility of the Planning Commission. As it reviewed the plans, the Commission also questioned why the original residence renovation, rear building addition and new stone walls on the property were not submitted for approval, since those structures appear to be located within a designated 100-foot wetland buffer area and require the issuance of wetland permits. The Commission agreed that the Chairman should work with the City Staff to review the matter and determine exactly what prior administrative process occurred and why possible activities requiring Commission approval were not submitted for review.

In its deliberation the Commission also noted considerable frustration with the builder Robert Howard for the extent of earthwork and tree removal conducted within a regulated area. It was suggested that the City explore possible action against the builder including revoking his contractor's license in the City of Rye and reporting the violation to the Westchester County Contractor Board.

It was the consensus of the Commission that while sympathetic to the applicant in connection with the request to maintain a hot tub, that the matter needs to be adjourned so that the Commission may investigate the prior wetland violation on the property and administrative actions of the City.

5. 269 Purchase Street

David Mooney, architect and applicant representative, presented an overview of the application, which involves a request for amended site plan approval to re-configure an existing parking area on an existing lot used by the Rye Medical Group. The intent of the modification is to consolidate parking on the Rye Medical Lot and to shift the lot lines of two existing abutting lots that are currently vacant. The City Planner advised that under the City Subdivision Regulations, he has the authority to approve the modification in lot lines for the existing three lots since it will not result in the creation of a new building lot.

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Mr. Mooney continued his presentation by noting that the site plan would provide a total of 32 parking spaces on the Rye Medical Lot, which represents an increase of two spaces over what is provided currently on the lot and four more than required by the Zoning Code. Mr. Mooney indicated that one, two-family residence will be constructed on each of the two abutting vacant building lots. The City Planner reminded the Planning Commission that the construction of the two-family residences would not be subject to Commission review and approval. The City Planner also noted that while the applicant intends to construct residences, the property is located in a B-1 Business District, which permits the construction of other non-residential uses.

The Commission noted concern with the current lack of parking on the Rye Medical property and the overflow parking condition on adjacent streets. Medical uses, the Commission reasoned, have become very parking intensive given the high number of patients and medical staff. It acknowledged that the City's parking standard for this use may need to be updated.

The Commission suggested that more on-site parking be provided and that the abutting lot proposed for a two-family residence should be used to expand the existing parking lot of Rye Medical. Mr. Mooney reminded the Commission that the application exceeds the minimum parking requirements and that on-street parking is permitted on streets abutting the site.

The City Planner reminded the applicant that the parking standards in the Zoning Code are considered minimums and that the Planning Commission can require additional parking spaces where it deems appropriate. The City Planner recommended that the applicant provide the Commission with additional factual information (such as a parking demand analysis, number of on-site staff, hours of operation, average stay of patients and extent of patient stacking/waiting) to demonstrate that the existing medical use has enough parking to adequately accommodate peak parking demand. If parking demand exceeds available supply, the extent of parking shortfall should be quantified.

In its review the Commission also inquired as to the adequacy of the width of the parking travel aisle. The City Planner advised that given the one-way travel pattern that the aisle width was appropriate and met the Zoning Code requirements.

Residents in attendance at the meeting also noted concern with the overflow parking condition on abutting streets and the impact that it has on vehicle travel patterns and traffic safety.

The comments of the Board of Architectural Review were also reviewed by the Planning Commission and incorporated as part of the record.

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6. Review of American Yacht Club/Rye Town Dock Land Exchange

Joseph J. McBrien, the Shenorock Shore Club Past President, began the presentation by thanking the Planning Commission for allowing Shenorock to be placed on the Commission's agenda on somewhat short notice. He noted that Shenorock has prepared an alternative proposal to the American Yacht Club (AYC)/Rye Town Dock land exchange that involves rehabilitating the existing Rye Town Dock. He indicated that the same presentation will be given to the City Council at their meeting on April 18, 2001.

Mr. McBrien indicated that the details of the Shenorock proposal are outlined in the technical memorandum prepared by Allee King Rosen & Fleming, Inc. (AKRF), dated February 7, 2001. While not specific on the exact amount, Mr. McBrien indicated that Shenorock would be willing to make a substantial financial contribution towards rehabilitating the existing Town Dock.

Anthony Russo of AKRF provided an overview of the February 7 report. He indicated that the proposed rehabilitation of the Town Dock would enable it to be used all year. Currently, the existing dock is not usable during periods of high tide when it is underwater. The Shenorock proposal would include the following:

- The rehabilitated dock would be constructed above the mean high tide mark
- Six parking spaces would be provided
- Cameras could be installed as an added security measure
- Rules could be posted on the dock
- Stairs would be provided to the water allowing for the launch of canoes and kayaks
- The rehabilitated dock would provide improved fishing opportunities since it would permit access to deep waters in the middle of the channel
- The total cost of the dock would be approximately \$111,000.

In response to the proposal, the Commission noted the following:

- The proposal should include a cul-de-sac or turnaround area near the proposed parking spaces.
- The anticipated cost estimates appeared low and the actual implementation cost would likely be higher.
- The cost of the lights for the dock appeared low given the Commission's recent experiences with lighting cost in connection with its review of the Rye High School lighting matter.
- The Commission felt that if the dock were constructed concrete rather than asphalt would be a more appropriate paving material.

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- The technical report prepared by AKRF should be stamped by a professional engineering corporation licensed to do business in the State of New York.

The Commission also emphasized that the Shenorock proposal is not currently before the City Council and has not been officially referred to the Planning Commission for its review and comment. In addition, the change in the dock would require the approval of the Town of Rye, not just the City. Mr. McBrien noted that Shenorock would present the proposal to the Town of Rye.

In reviewing the Shenorock proposal, the Commission noted that many of the comments of the Planning Commission's October 25, 2000 memorandum have yet to be addressed by AYC. In particular, the Commission highlighted the need to address how the proposed Gibbons parcel would provide the equivalent access to water as the current Rye Town Dock. The Commission noted the receipt of correspondence to the City Planner from Stephen J. Furnary, Flag Officer of AYC, which indicates that AYC will submit to the City "within a couple of weeks" a consultant report comparing the Shenorock and AYC proposals. The Commission requested that the City Planner prepare a letter to Mr. Furnary indicating that the AYC matter would be discussed at the Commission's May 8, 2001 meeting. If AYC would like the Commission to consider the consultant's report it would need to submit the information in advance of that meeting.

7. Review of Draft Flood Mitigation Plan

The Commission adjourned this matter until its next meeting.

8. Minutes

The Planning Commission reviewed the draft minutes of its March 13, 2001 meeting.

On a motion made by Brian Spillane, seconded by Joseph P. Cox and carried by the following vote:

AYES:	Brian Spillane, Joseph P. Cox, Lawrence H. Lehman, Douglas McKean
NAYES:	None
ABSTAIN:	Michael W. Klemens, Philip DeCaro
ABSENT:	Peter Larr

the Planning Commission took the following action:

ACTION: The Planning Commission adopted the minutes of its March 13, 2001 meeting.

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III. Miscellaneous Items

1. Anticipated Absences

Chairman Klemens indicated that he may not and member McKean indicated that he would not be able to attend the Commission's April 24, 2001 meeting.

2. Informal Reviews

None

3. Other Business

The Commission reviewed and requested minor modifications to the draft resolution paying tribute to the hard work, dedication and professionalism of retired City Planner Frederick E. Zepf.

On a motion made by Chairman Klemens, seconded by Joseph P. Cox and carried by the following vote:

AYES: Michael W. Klemens, Brian Spillane, Philip DeCaro, Joseph P. Cox,
Lawrence H. Lehman, Douglas McKean

NAYES: None

ABSTAIN: None

ABSENT: Peter Larr

the Planning Commission took the following action:

ACTION: The Planning Commission adopted Resolution No. 08-2001 paying tribute to retired City Planner Frederick E. Zepf.

4. Correspondence

None

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 10:50 p.m.

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Christian K. Miller, AICP
City Planner